

**Marilyn Moon, Ph.D.**  
CHAIR



**Rex W. Cowdry, M.D.**  
EXECUTIVE DIRECTOR

## **MARYLAND HEALTH CARE COMMISSION**

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

## **MARYLAND HEALTH CARE COMMISSION**

**Thursday, September 17, 2009**

### **Minutes**

Chairwoman Moon called the public meeting to order at 1:07 p.m. noting a change in the order of the agenda.

Commissioners present: Conway, Falcone, Fleig, Kan, Krumm, Lyles, McLean, Moon, Moore, Ontaneda-Bernales, Todd, and Worthington.

### **ITEM 1.**

#### **Approval of the Minutes**

Commissioner Moore made a motion to approve the minutes of the July 16, 2009 meeting of the Commission, which was seconded by Commissioner Conway and unanimously approved.

### **ITEM 2.**

#### **Update of Activities**

Rex Cowdry, Executive Director, introduced Rebecca Perry, the new Chief of Government Relations and Special Projects for the Maryland Health Care Commission.

Dr. Cowdry said that the General Assembly transferred \$3 million to the Commission's budget for the making of an annual grant to the R. Adams Cowley Shock Trauma Center in 2009. The EMS board must review and approve any plan for disbursement of these Funds. The Commission members concurred with the EMS board's disbursement approval process.

Ben Steffen, Director, Center for Information Services and Analysis, said proposed regulations for the Medical Care Data Base will be released this month for informal public comment. The Commission will take action on the proposed regulations in October.

Bruce Kozlowski, Director, Center for Long-Term and Community Based Services, said the Maryland Health Care Commission will participate as an exhibitor at the Baltimore Senior Baby Boomer Expo to be

held October 7-8, 2009. Mr. Kozlowski said visitors to the booth will be able to learn about features in the current Nursing Home and Assisted Living Guide, preview the proposed web site, and provide feedback on the new site.

David Sharp, Director, Center for Health Information Technology, announced that the Office of the National Coordinator for Health Information Technology released two grant opportunities on August 20<sup>th</sup>. The first grant, *State Health Information Exchange Cooperative Agreement Program*, is for planning or implementing health information exchange. Staff submitted a letter of intent and is completing the application, which is due by October 16<sup>th</sup>. The second grant, *Health Information Technology Extension Programs: Regional Centers Cooperative Agreement Program* is intended to fund a non-profit that promotes education, awareness, and technical assistance for the adoption and meaningful use of electronic health records. The application is due by November 3<sup>rd</sup>.

Pam Barclay, Director, Center for Hospital Services, introduced new staff member Mariam Rahman. She said Ms. Rahman will be working with Theresa Lee as a Health Policy Analyst in the area of Hospital Quality Initiatives.

Ms. Barclay said the Centers for Disease Control and Prevention announced the award of a \$1.2 million grant to Maryland to enhance the prevention of healthcare-associated infections. The grant application was a joint effort of the Commission, the Department of Health and Mental Hygiene, and the Maryland Health Quality and Cost Council.

### **ITEM 3.**

#### **UPDATE: Small Group Market Premiums for 2008**

Janet Ennis, Chief, Small Group Market, said carriers participating in the small group market are required to annually submit to the Commission completed survey forms that include enrollment and premium information in the CSHBP for the preceding calendar year, which she presented at the May public meeting. As part of the actuarial contract, Mercer is required to audit the survey forms submitted by the major small group carriers. Ms. Ennis said that as a result of this year's audit, Mercer determined, and the dominant carrier reported to the MHCC, that the reporting method used for some portions of their book of business, though acceptable, differed from the method historically used in the small group market. Ms. Ennis presented the updated small group market premium averages for the PPO and PPO/H.S.A. products based on the revised survey forms submitted by that major carrier. Ms. Ennis also indicated that an updated version of the presentation on the CSHBP would be posted on the MHCC website.

### **ITEM 4.**

#### **ACTION: COMAR 10.25.01 – Small Employer Health Benefit Plan Premium Subsidy Program**

Janet Ennis presented final regulations governing the Health Insurance Partnership. Ms. Ennis noted that the proposed and emergency regulations were approved at the June public meeting of the Commission and published in the *Maryland Register*. No public comments were received. Commissioner Krumm made a motion to adopt the recommended regulations as final, which was seconded by Commissioner Fleig, and unanimously approved.

**ACTION: COMAR 10.25.01 – Small Employer Health Benefit Plan Premium Subsidy Program – ADOPTED as final regulations.**

## **ITEM 5.**

### **ACTION: COMAR 31.11.14 - Wellness Benefits Under Small Employer Health Benefit Plans**

Ms. Ennis presented final regulations for the wellness benefits for all policies sold in the small group market. Ms. Ennis noted that the proposed regulations were approved at the June public meeting of the Commission and published in the *Maryland Register*. No public comments were received. Commissioner Ontaneda-Bernales made a motion to adopt the regulations as final, which was seconded by Commissioner Kan and unanimously approved.

### **ACTION: COMAR 31.11.14 – Wellness Benefits Under Small Employer Health Benefit Plans – ADOPTED as final regulations.**

## **ITEM 6.**

### **ACTION: Certificate of Need**

- **Frederick Surgery Center (Docket No. 09-10-2296)**

Eileen Fleck, Health Policy Analyst, stated that Frederick Surgical Center applied for a Certificate of Need to replace and relocate its existing ambulatory surgical facility with four operating rooms and four procedure rooms. Ms. Fleck said the new location is also in Frederick County and within three miles of the current location. She said the estimated cost of the project is \$2,429,540 and that the project is consistent with the applicable State Health Plan standards and CON review criteria and recommended that the Commission grant the Certificate of Need. Commissioner Krumm made a motion to approve the staff recommendation, which was seconded by Commissioner Falcone and unanimously approved.

### **ACTION: Certificate of Need – Frederick Surgery Center is hereby APPROVED.**

- **Fairland Adventist Nursing and Rehabilitation Center (Docket No. 09-15-2291)**

Susan Meyers, Health Policy Analyst, stated that Fairland Adventist Nursing and Rehabilitation Center applied for a Certificate of Need to replace and relocate its existing comprehensive care facility in Silver Spring. Ms. Meyers said that Fairland is currently a 92-bed facility and the proposed new facility will be 167 beds. She said the proposed facility will contain approximately 121,000 square feet of space on five levels with four nursing units and is designed to provide 71 private rooms and 48 semi-private rooms. Ms. Meyers said the first level of the building will include a 12-unit chronic dialysis center which can be accessed by the public without passing through the long-term care component of the facility. She indicated that the total estimated project cost is \$38,505,713 with a mortgage of about \$34.6 million and the balance to be paid with cash. Ms. Meyers said staff recommended that the proposed project be approved, subject to conditions. Commissioner Moore made a motion to approve the staff recommendation, which was seconded by Commissioner McLean and unanimously approved. Commissioner Ontaneda-Bernales recused herself from this matter.

### **ACTION: Certificate of Need – Fairland Adventist Nursing and Rehabilitation Center is hereby APPROVED.**

- **Rivermont Nursing and Rehabilitation Center ( Docket No. 08-15-2228)**

Ms. Meyers stated that Rivermont Nursing and Rehabilitation Center applied for a Certificate of Need to construct a 124-bed comprehensive care facility in the Clarksburg area of Montgomery County. Ms. Meyers said the bed capacity proposed for construction will replace and relocate 80 comprehensive care facility beds formerly operated at Mariner Health of Circle Manor in Kensington. She said the balance of the beds will replace and relocate 44 comprehensive care facility beds currently operating at Springbrook Nursing and Rehabilitation Center in Silver Spring. Ms. Meyers stated that the proposed facility will contain 98,505 square feet and be comprised of four levels. She stated that the first level will house non-patient care functions and a therapy/gym area; the second floor unit will host 42 private rooms; and the third and fourth floor levels will have 41 beds each. The total estimated cost for the proposed project is \$35,699,459. The application proposes to fund the project with \$29 million mortgage and approximately \$6.6 million in cash. Ms. Meyers said staff recommended that the proposed project be approved, subject to conditions. Commissioner Conway made a motion to approve the staff recommendation, which was seconded by Commissioner Kan and unanimously approved. Commissioner Ontaneda-Bernales recused herself from this matter.

**ACTION: Certificate of Need – Rivermont Nursing and Rehabilitation Center is hereby APPROVED.**

**ITEM 7.**

**ACTION: Certificate of Need - St. Mary's Hospital – Modification (Docket No. 08-18-2248)**

Joel Riklin, Health Policy Analyst, stated that St. Mary's Hospital (SMH) applied for a modification to its Certificate of Need which was previously approved at the October 16, 2008 public meeting of the Commission. Mr. Riklin said St. Mary's Hospital seeks to modify the physical plant design approved in its Certificate of Need because recent experience fell below projected utilization. He said SMH proposed a 33% reduction in the total amount of space to be constructed and renovated, as well as a 53% reduction in new construction. He stated 26 beds will be eliminated, including 18 additional MSGA beds, and two additional psychiatric beds. Mr. Riklin noted that the approved shell space for an additional 15 to 16 MSGA beds will also be eliminated and the emergency department treatment spaces will be reduced from 23 to 13. Mr. Riklin said these changes reduced the estimated cost of the project by 37% and the estimated bond debt is 35% less than that proposed for the project, as approved, October 16, 2008. Mr. Riklin recommended that the Commission approve the proposed modification with a change to Condition 1 and recommended eliminating 3 conditions that relate to the shell space that will no longer be part of the project. Commissioner Conway made a motion to approve the Staff recommendation, which was seconded by Commissioner Kan and unanimously approved. Commissioner Ontaneda-Bernales recused herself from this matter.

**ACTION: Certificate of Need – St. Mary's Hospital – Modification is hereby APPROVED.**

**ITEM 8.**

**ACTION: Request for Primary PCI Waiver Renewal – Carroll Hospital Center (Docket No. 09-06-0043 WR)**

Sadie Silcott, Health Policy Analyst, stated that Carroll Hospital Center applied for renewal of their two-year primary PCI waiver. Ms. Silcott noted that Carroll Hospital Center met the COMAR 10.24.17.05D(1) requirements for institutional resources, physician resources, patient groups suitable for

pPCI in settings without on-site cardiac surgery, institutional volume, and process and outcome measures for ongoing quality assessment. She presented the Executive Director's recommendation that the Commission issue a two-year waiver that permits Carroll Hospital Center to continue providing primary percutaneous coronary intervention services without on-site cardiac surgery services. Commissioner Krumm made a motion that the Commission approve the Executive Director's recommendation, which was seconded by Commissioner Todd and unanimously approved.

**ACTION: Application for Carroll Hospital Center for Renewal of their two-year Waiver to Provide Primary PCI without Cardiac Surgery On-Site is hereby APPROVED.**

#### **ITEM 9.**

##### **PRESENTATION: Implications of National Health Care Reform Proposals for the General Assembly and the MHCC**

Rex Cowdry, M.D., Executive Director, provided a brief presentation on the implications of National Health Care Reform Proposals. Dr. Cowdry discussed the key policy issues under discussion in the federal reform debate, focusing on the potential implications for Maryland and the Commission. He noted that the degree of agreement on several key policies is as striking as the remaining disagreements – few would have predicted that all the major reform proposals would agree on the need to reform the underwriting rules in insurance markets, structure those markets through a health insurance exchange, assure that individuals purchase coverage if affordable policies are available, and provide subsidies or advanceable tax credits to low to middle income individuals. Dr. Cowdry reviewed the Commission's previous work on each of these issues, and the proposal that was modeled in 2007. He then outlined several important challenges that may devolve to the states in some versions of the reform bills. Although some features of insurance market reform are clear, others are unresolved, including the range of premium variations allowed based on age and other factors and whether the individual and small group markets could and should be merged to facilitate employee choice, and whether parallel insurance markets would function outside the exchange. The functions of the exchange, ranging from improved information and transparency to benefit design and price negotiations, remain to be determined. He also reviewed the challenges in crafting an affordable plan. Members of the Commission elaborated on a number of the concerns, including elimination of pre-existing condition exclusions and the effects of different rating rules.

#### **ITEM 10.**

##### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:54 p.m., upon motion of Commissioner Krumm, which was seconded by Commissioner Falcone and unanimously approved.